

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

GAREY THOMAS,

v.

**JAIME SORBER,
NURSE VOLTZ, &
DR. JOHN DOE**

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**CIVIL ACTION
No. 23-0907**

ORDER

This 27th day of September, 2023, Defendants Jaime Sorber, Nurse Voltz, and Dr. John Doe's Motion to Dismiss (ECF 18), is hereby **GRANTED in part and DENIED in part**, as follows:

1. As to Plaintiff's Eighth Amendment claim against Defendant Nurse Voltz in her individual capacity pursuant to 42 U.S.C. § 1983, Plaintiff has adequately set forth a factual basis in his Amended Complaint for a viable claim at this stage limited to the delay in removing the catheter.
2. Defendants' Motion to Dismiss Plaintiff's Eighth Amendment claim pursuant to 42 U.S.C. § 1983 against Dr. John Doe in his individual capacity is denied for the reasons previously set forth in my May 1, 2023 Memorandum (ECF 8).
3. The Pennsylvania Office of Attorney General is **DIRECTED** to make available to Mr. Thomas his medical records pertaining to the instant alleged harm so that Plaintiff may ascertain the name of Defendant Dr. John Doe and amend his Complaint accordingly within twenty-one (21) days of the receipt of such records.¹

¹ As previously noted in my May 1, 2023 Order, ECF 9, without the name of Dr. John Doe, the Court may be unable to direct service of the pending complaint or any amended complaint that Mr. Thomas may file.

4. Plaintiff's Eighth Amendment claim against Defendant Jaime Sorber in his individual capacity pursuant to 42 U.S.C. § 1983 is **DISMISSED without prejudice** for the reasons set forth in the accompanying Memorandum. Mr. Thomas may amend his Complaint if he can cure the defects in the claim with specific, credible factual allegations. Such amendment shall be due within twenty-one (21) days after his receipt of the medical records.
5. As to any amendment, Plaintiff need not resubmit an amended complaint in its entirety; leave is granted for him to file a supplemental pleading identifying any Doe defendant by name, setting forth allegations as to any such defendant individually, and setting forth any specific factual allegations relating to his claim against Mr. Sorber, should he choose to add any allegations.

/s/ Gerald Austin McHugh
United States District Judge